**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| In re application of: | ) | Examiner: Angell, Jon E. |
| | ) | |
| Avi J. ASHKENAZI, et al.. | ) | Art Unit: 1635 |
| | ) | |
| Application Serial No. 09/978,564 | ) | Confirmation No. 5282 |
| | ) | |
| Filed: October 16, 2001 | ) | Attorney's Docket No. 39780-2630 P1C25 |
| | ) | |
| For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME** | ) | **Customer No. 35489** |

**DECLARATION OF DR. LUC DESNOYERS, DR. AUDREY GODDARD, DR. PAUL J. GODOWSKI, DR. AUSTIN GURNEY and DR. WILLIAM I. WOOD, UNDER 37 C.F.R. §1.131**

**MAIL STOP AMENDMENT**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

We, Luc Desnoyers, Ph.D., Audrey Goddard, Ph.D., Paul J. Godowski, Ph.D., Austin Gurney, Ph.D. and William I. Wood, Ph.D. declare and say as follows:

1. We are the inventors of the above-identified application. We have read and understood the claims pending in this application, and are aware that the claims stand rejected as allegedly being unpatentable over Holtzman *et al.*, U.S. 2002/0055139, published May 9, 2002 with priority to May 14, 1999. Holtzman *et al.* teach a polypeptide (human A236 protein) that is 100% identical to SEQ ID NO:59.

2. The polypeptide designated as PRO363 (SEQ ID NO:59), antibodies to which are claimed in the above-identified application, was sequenced, cloned and identified as having homology to the cell surface protein HCAR in the United States prior to May 14,1999.

3. U.S. Provisional Application No. 60/078,910, filed on March 20, 1998, discloses sequences designated as SEQ ID NO:1 and SEQ ID NO:3. The native sequence polypeptide of SEQ ID NO:3 is identical to SEQ ID NO:59 of the above-identified application, while SEQ ID

NO:1 is identical to SEQ ID NO:58 of the above-identified application. A copy of U.S. Provisional Application No. 60/078,910 is enclosed as **Exhibit A**.

4. U.S. Provisional Application No. 60/078,910, filed on March 20, 1998 further discloses that SEQ ID NO:3, corresponding to SEQ ID NO:59 of the above-identified application, has homology to the cell surface protein HCAR.

5. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

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| **Luc Desnoyers, Ph.D.** | 10/25/2005<br>Date |
| **Audrey Goddard, Ph.D.** | Date |
| **Paul J. Godowski, Ph.D.** | Date |
| **Austin Gurney, Ph.D.** | Date |
| **William I. Wood, Ph.D.** | Date |

SV 2162943 v1
10/24/05 2:19 PM (39780.2630)

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| **Luc Desnoyers, Ph.D.** | Date |
| A. Goddard | 28 Oct 05 |
| **Audrey Goddard, Ph.D.** | Date |
| **Paul J. Godowski, Ph.D.** | Date |
| **Austin Gurney, Ph.D.** | Date |
| **William I. Wood, Ph.D.** | Date |

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| **Audrey Goddard, Ph.D.** | Date |
| Paul Godowski<br>**Paul J. Godowski, Ph.D.** | 10/26/05<br>Date |
| **Austin Gurney, Ph.D.** | Date |
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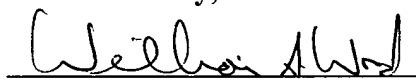
|  | 10/26/05 |
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